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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-----------------------|---------------------|------------------|
| 10/712,856      | 11/12/2003  | Christopher John King | 35693.830009.US0    | 8652             |

7590

05/04/2004

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| EXAMINER |
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HALE, GLORIA M

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3765

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |  |  |
|------------------------------|-------------------------------|--|--|
| <b>Office Action Summary</b> | Application No.<br>10/712,856 | Applicant(s)<br>KING, CHRISTOPHER JOHN |  |
|                              | Examiner<br>Gloria Hale       | Art Unit<br>3765                       |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speth et al (US 5,271,101) in view of Roseman (US 2,941,577).

In regard to claims 1-31 and 33-39 Speth et al discloses a pair of stretchable athletic short pants (10) including a body portion (12), crotch with a chamois (16), buttocks (not numbered), waist opening (18) and two leg openings (20) wherein the body portion is constructed of panels (14) of stretchable elastic spandex materials (and nylon or polyester) which is moisture wicking with the panels (14) having edges wherein the panels are connected with stitched seams. However, Speth et al does not disclose the overlapping edges which are bonded together to form a seam (See Speth et al, figures 1-5 and col. 3, lines 1-21). Roseman discloses the general method of forming overlapped adhesively bonded seams with adhesive cement to form a flat seam which does not pucker as with stitched seams and which would hold the material edges flat and wherein the adhesive would prevent the fabric edges from fraying. (See Roseman, col. 4, lines 14-26) to form a smooth flat seam which cements the fabric edges together without puckering as with stitched seams and to avoid problems when stitching curved garment portions. Abutting the edges is easier with adhesive bonding as disclosed by

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Roseman (See Roseman, col. 4, lines 5-14 and figures 1-4). Both Speth et al and Roseman disclose curved and straight seams. In regard to claim 32 Roseman discloses the use of cement adhesive. However, Roseman does not specifically disclose a polyurethane adhesive. It is well known that polyurethane adhesives are used in garment manufacturing for its adhesive qualities such as its ability to withstand launderings. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a polyurethane adhesive since such adhesives are well known to be used in garment manufacturing and that such selection is within the skill of one of ordinary skill in the art to select a known material which is compatible with a desired end use.

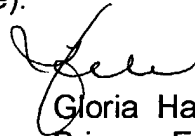
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose athletic cycling garments and bonded overlapped seams.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 703-308-1282. The examiner can normally be reached on Tuesday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gloria Hale  
Primary Examiner  
Art Unit 3765

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